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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Robert E. Dvorak

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EXAMINER

VAN DOREN, BETH

ART UNIT

PAPER NUMBER

3623

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/755,635

Applicant(s)

DVORAK ET AL.

Examiner

Beth Van Doren

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. 20050727.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The following is a final office action in response to communications received 03/21/05.

Claims 25-46 are pending in this application.

Response to Applicant's Remarks regarding the Restriction

2. In the remarks, Applicant requested reconsideration of the restriction requirement since the five groups established do not cause serious burden on the Examiner. The Applicant also states that the five groups established in the restriction requirement are not patentably independent and distinct and at most there should be no more than two groups established for the restriction requirement.

In response to these remarks, Examiner respectfully disagrees. Examiner maintains that five independent and distinct inventions are disclosed in the claims of the invention, as set forth in the restriction requirement of 11/24/2004. Examiner points out that there is no disclosed relationship in the claims between the five invention groups. Examiner reminds the applicant that the purpose of restriction is to limit the Applicant from receiving a single patent on multiple distinct inventions. Specifically, 37 CFR 1.141 states that two or more distinct inventions may not be claimed in one national application.

As for serious burden on the examiner, Examiner refers to at least MPEP § 808.02 which states that burden on the examiner is shown by a different field of search being required for each claim group, even if the classification is the same. Examiner points out that the five invention groups require different searches, as set forth in the restriction requirement of 11/24/2004, and therefore there is burden on the Examiner.

Therefore, the requirement is still deemed proper.

Response to Arguments

3. Applicant's arguments with respect to Landvater (U.S. 6,609,101) have been fully considered but they are not persuasive. In the remarks, applicant argues that (1) Landvater teaches safety stock inventory instead of presentation quantity, which is the amount of inventory needed to present an attractive display and that there is no teaching of stocking to satisfy presentation quantity requirements, (2) Landvater does not teach display type naming, (3) Landvater does not teach availability including preparing the delivered goods for sale since there is no mention of taking into account the time between goods being delivered and unpacked.

In response to argument (1), Examiner respectfully disagrees. Landvater teaches both the quantities of the number of products required to create a display and a number of products in safety stock inventory. See specifically column 14, line 34-column 15, line 25. Landvater teaches specifically "the following shelf configuration information: the number of facings (product facing the consumer), the minimum number of rows deep to create an attractive display, the maximum number of rows deep which will fit in the space allocated to this product, the amount of backroom safety stock (safety stock maintained in a location other than the store shelf), and the date this configuration becomes effective". The system multiplies the number of facings by the number of rows to determine the number of products for the attractive display. To determine inventory needs to meet the display type wanted in the future, the system determines the number of product currently on-hand by converting the current display to safety stock numbers (multiplying the facings by the rows deep) and combining this amount with the current safety stock numbers. The system then determines the total amount of product needed for the future display type, and compares these numbers. Examiner points out that Landvater therefore

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does teach both safety stock and presentation quantity (i.e. amount for an attractive display), but combines these numbers merely for simplicity when replenishment planning, though the system still maintains in the display profile the number of products needed for the defined display type.

In response to argument (2), Examiner points out that the claims recite “naming a plurality of display types used by a plurality of selling locations”. Examiner points out that Landvater discloses that the system stores in a database identified current and future shelf configuration profiles, as configured using shelf-planning systems or planograms interfaced with the system. See specifically column 14, lines 25-65, column 15, lines 1-6 and 17-25, wherein profiles of display types are stored in the system. Therefore, a display type is identified to the system, this display type used at least at a selling location. The system is capable of determining time-phased product sales forecasts, display stock and safety stock inventory needs, and projected replenishment shipments for a plurality of products for retail stores. Therefore, this display type identification would occur for multiple products at a store and this system would be used by multiple stores. Associated in the database with the identified current and future shelf configurations is data concerning goods, presentation dates, time elements, etc.

In response to argument (3), it is noted that the features upon which applicant relies (i.e., the time between goods being delivered and unpacked) is not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Claim 28 recites “availability includes preparing the delivered goods for sale”. Examiner points out that this is a very broad limitation that includes any action performed on the good between the delivery of the good to the retailer and the moment the good is available to the

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customer for purchase. Landvater at least teaches setting up the delivered goods in a display for sale in column 3, lines 10-30, column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 14, lines 25-65. If something more specific is meant, it should be recited in the pending claims.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 25-46 are rejected under 35 U.S.C. 102(e) as being anticipated by Landvater (U.S. 6,609,101).

5. As per claim 25, Landvater teaches a computer-implemented method of rolling up projected demand requirements and presentation quantities for a plurality of selling locations, including:

naming a plurality of display types used by a plurality of selling locations (See figures 14 and 15, column 1, lines 40-50, column 2, lines 20-27, column 14, lines 25-65, column 15, lines 1-6 and 17-25, wherein profiles of display types are stored in the system);

associating numbers of the named displays present at the selling locations with the selling locations (See figures 14 and 15, column 1, lines 40-50, column 2, lines 20-27, column 14, lines 25-65, column 15, lines 1-6 and 17-25, wherein the displays are associated with the location and used when forecasting demand);

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associating a good and presentation dates with one or more named displays (See figures 14 and 15, column 1, lines 40-50, column 2, lines 20-27, column 14, lines 25-65, column 15, lines 1-6 and 17-25, wherein the good has a time of display);

associating respective time elements, corresponding to times for an action to lead to availability of the good at the selling locations, with the good at the selling locations (See figures 14 and 15, column 9, lines 15-25 and 55-67, column 10, lines 1-20, column 14, lines 25-65, column 15, lines 1-6 and 17-25, wherein the forecast is time-phased);

looking forward from a date related to the action and rolling up projected demand requirements for one or more predetermined selling periods, which commence at one or more dates related to the respective time elements, for the good at the selling locations, while taking into account association of good with the named displays in the respective selling locations (See figures 14 and 15, column 9, lines 15-25 and 55-67, column 10, lines 1-20, column 14, lines 25-65, column 15, lines 1-6 and 17-25).

6. As per claim 26, Landvater discloses wherein a user interface facilitates associating predetermined sets of respective time elements with the good at the plurality of selling locations (See at least column 9, lines 15-25 and 55-67, column 10, lines 1-20, column 14, lines 25-65, column 15, lines 1-6 and 17-25, wherein the forecast is time-phased at a selling location).

7. As per claim 27, Landvater discloses wherein availability of the good includes delivery of the good from a stocking location (See figure 1, column 6, lines 45-67, column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 13, lines 30-45 and 59-67, column 14, lines 25-65, which discloses a stocking location).

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8. As per claim 28, Landvater teaches wherein availability further includes preparing the delivered goods for sale (See column 3, lines 10-30, column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 14, lines 25-65, which discloses setting up the display of the delivered good).

9. As per claim 29, Landvater disclosed wherein the time elements include time required to collect data, review action recommendations, process data, pick goods at a stocking location, and ship the goods to the selling location (See column 3, lines 10-30, column 7, lines 1-25, column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 14, lines 25-65, column 16, lines 35-65).

10. As per claim 30, Landvater wherein the respective time element further include periodic dates for actions necessary to make the good available at the plurality of selling locations (See at least figures 8 and 9, column 4, lines 20-40 and 54-66, column 3-30 and 55-65, column 10, column 11, lines 15-35, wherein time periods for forecasting are set in the system).

11. As per claim 31, discloses wherein the respective time elements include time of distributing the good from one or more first level stocking locations to a plurality of second level stocking locations (See figure 1, column 3, lines 10-30, column 6, lines 45-67, column 7, lines 1-25, column 8, lines 25-45, column 9, lines 1-25 and 55-67, wherein the good is distributed among level 2 and 3 stocking locations using a time element).

12. As per claim 32, Landvater wherein the respective time elements include time for distributing the good from one or more first level stocking locations to a plurality of second level stocking locations (See figure 1, column 3, lines 10-30, column 6, lines 45-67, column 7, lines 1-25, column 8, lines 25-45, column 9, lines 1-25 and 55-67, wherein the good is distributed among level 2 and 3 stocking locations using a time element).

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13. As per claim 33, teaches wherein the respective time elements include time for distributing the good from a supplier through one or more stocking locations to a plurality of selling locations (See figure 1, column 3, lines 10-30, column 6, lines 45-67, column 7, lines 1-25, column 8, lines 25-45, column 9, lines 1-25 and 55-67, wherein the good is distributed from a supplier to the selling location using a time element).

14. As per claim 34, Landvater discloses wherein the respective time elements include time for distributing the good from a supplier through one or more stocking locations to a plurality of selling locations (See figure 1, column 3, lines 10-30, column 6, lines 45-67, column 7, lines 1-25, column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 14, lines 25-65, wherein the good is distributed from a supplier to the selling location using a time element).

15. As per claim 35, Landvater discloses wherein the action includes distribution of the good from one or more stocking locations to a plurality of selling locations (See figure 1, column 6, lines 45-67, column 7, lines 1-25, column 8, lines 25-45, column 9, lines 1-25, column 13, lines 30-45 and 59-67, column 14, lines 25-65, wherein the good is distributed from a stocking location to selling locations).

16. As per claim 36, Landvater discloses wherein the action includes ordering the good from a supplier (See figure 1, column 6, lines 45-67, column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 13, lines 30-45 and 59-67, column 14, lines 25-65, wherein the good is ordered from a supplier).

17. As per claim 37, Landvater teaches wherein the action includes allocating delivery of the good after ordering from a supplier (See figure 1, column 6, lines 45-67, column 8, lines 25-45,

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column 9, lines 1-25 and 55-67, column 13, lines 30-45 and 59-67, column 14, lines 25-65, wherein deliveries of goods from suppliers are allocated).

18. As per claim 38, Landvater teaches wherein the projected demand is for sale of the good at the selling locations (See column 6, lines 45-67, column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 13, lines 30-45 and 59-67, column 14, lines 25-65, wherein projected demand is sale of the good).

19. As per claim 39, Landvater discloses wherein the projected demand is for a stocking level of the good at the selling locations (See column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 10, lines 1-20, column 14, lines 25-65, column 15, lines 1-6 and 17-25, which discuss shipments to maintain specific safety stock levels).

20. As per claim 40, Landvater teaches wherein rolling up includes adding the presentation quantities and the projected demand requirements for the good at the selling locations (See column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 10, lines 1-20, column 14, lines 25-65, column 15, lines 1-6 and 17-25, which discuss presentation quantities and demand requirements).

21. As per claim 41, Landvater teaches wherein the presentation quantity used in the roll up is the average presentation quantity for the location during the predetermined selling period (See column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 10, lines 1-20, column 14, lines 25-65, column 15, lines 1-6 and 17-25, which discuss presentation quantities).

22. As per claim 42, Landvater teaches wherein the presentation quantity used in the roll up is the presentation quantity for the selling location on the first day of the predetermined selling

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period (See column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 10, lines 1-20, column 14, lines 25-65, column 15, lines 1-6 and 17-25, which discuss presentation quantities).

23. As per claim 43, Landvater teaches wherein the presentation quantity used in the roll up is the presentation quantity on the day of the predetermined selling period when the good is received at the selling location (See column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 10, lines 1-20, column 14, lines 25-65, column 15, lines 1-6 and 17-25, which discuss presentation quantities).

24. As per claim 44, Landvater teaches wherein the presentation quantity used in the roll up is the largest presentation quantity associated with the good at the selling location for any day of the predetermined selling period (See column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 10, lines 1-20, column 14, lines 25-65, column 15, lines 1-6 and 17-25, which discuss presentation quantities at the maximum and minimum acceptable levels).

25. As per claim 45, Landvater teaches wherein the rolling up includes selecting the larger of the presentation quantities or the projected demand requirements for the good at the selling locations (See column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 10, lines 20-50, column 14, lines 25-65, column 15, lines 1-6 and 17-25, which discuss presentation quantities at the maximum and minimum acceptable levels).

26. As per claim 46, Landvater teaches wherein the presentation quantity used in the roll up is the presentation quantity for the selling location on the last day of the predetermined selling period (See column 8, lines 25-45, column 9, lines 1-25 and 55-67, column 10, lines 1-20, column 14, lines 25-65, column 15, lines 1-6 and 17-25, which discuss presentation quantities at the maximum and minimum acceptable levels).

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Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (571) 272-6737. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

lwd

bvd

August 2, 2005

Susanna Diaz
SUSANNA M. DIAZ
PRIMARY EXAMINER

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